

Message Text

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ACTION ARA-10

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E.O. 11652: N/A

TAGS: PFOR, OAS

SUBJECT: RESOLUTION ON PANAMA SOVEREIGNTY BY INTER-AMERICAN
JURIDICAL COMMITTEE (IAJC)

REF: STATE 193893

1. RENATO RIBEIRO, SECRETARY OF IAJC, CONFIRMED THAT
IAJC ON AUGUST 8 APPROVED A "RESOLUTION ON THE PANAMA
CANAL CASE". IAJC SECRETARIAT FINISHED TYPING ALL
PAPERS CONNECTED WITH THE RESOLUTION ON AUGUST 19 AND
IS FORWARDING THEM TO OAS SECRETARY GENERAL BY MAIL ON
AUGUST 20. RIBEIRO STRESSED IAJC IS NOT RPT NOT SUP-
POSED TO PROVIDE COPIES OF ANY IAJC DOCUMENTS TO ANYONE
UNTIL AFTER OAS SECRETARY GENERAL HAS RECEIVED HIS
OFFICIAL COPY. RIBEIRO FURNISHED COPIES OF THESE
DOCUMENTS TO POLOFF ON UNDERSTANDING USG WOULD NOT RPT
NOT ADMIT TO POSSESSING THEM UNTIL AFTER OAS SECRETARY
GENERAL RECEIVES HIS COPIES.

2. DOCUMENTS BEING POUCHED AUGUST 20 REG. 809993 TO L/ARA GANTZ
INCLUDE COPY OF LETTER DATED 16 AUGUST FROM GALINDO POHL, CHAIR-
MAN OF IAJC, WHICH TRANSMITS SEVERAL DOCUMENTS TO OAS
SECRETARY GENERAL, EXPLAINS WHAT THEY ARE AND, IN THE
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CASE OF THREE, WHO VOTED FOR THEM. SECOND, THERE IS

THE RESOLUTION ON PANAMA CANAL APPROVED BY UNANIMITY ON 8 AUGUST BY AJA ESPIL (ARGENTINA), CAICEDO CASTILLA (COLOMBIA), GOMEZ ROBLEDO (MEXICO), PRADO KELLY (BRAZIL), RICALDONI (URUGUAY), RUIZ-ELDREDGE (PERU), GALINDO POHL (EL SALVADOR), AND MATERNO VASQUEZ (PANAMA). ACCORDING TO RIBEIRO, NOTE TOOK PLACE AT ABOUT 1930 ON THAT DATE. PANAMANIAN MEMBER LEFT IMMEDIATELY FOR AIRPORT AND THUS UNABLE SIGN RESOLUTION NEXT DAY WITH REST OF MEMBERS WHO APPROVED IT. ALSO ACCORDING RIBEIRO, VARGAS CARRENO (CHILE) WITHDREW FROM MEETING RATHER THAN DISCUSS OR VOTE ON THE RESOLUTION AND ASSOCIATED DOCUMENTS. THIRD DOCUMENT IS ANOTHER RESOLUTION OF 8 AUGUST APPROVED IN UNANIMITY BY GROUP MENTIONED ABOVE NAMING RUIZ-ELDREDGE AS A RAPPORTEUR TO PREPARE A DOCUMENT ON THE ARGUMENTS (EXPOSICION DE MOTIVOS) BEHIND THE CANAL RESOLUTION. FOURTH DOCUMENT IS RUIZ-ELDREDGE'S EXPOSICION DE MOTIVOS APPROVED ON 14 AUGUST BY COLOMBIAN, MEXICAN, BRAZILIAN, URUGUAYAN, PERUVIAN, AND SALVADORIAN MEMBERS. FINALLY, THERE ARE TWO DOCUMENTS CONTAINING THE RESERVATIONS OF THE ARGENTINE MEMBER ON HIS VOTE ON THE CANAL RESOLUTION AS WELL AS THE RESERVATIONS OF THE URUGUAYAN NOT ONLY ON HIS VOTE ON THE CANAL RESOLUTION BUT ALSO ON RUIZ-ELDREDGE'S (EXPOSICION DE MOTIVOS).

3. RIBEIRO EXPLAINED THAT THE PANAMA CANAL RESOLUTION WAS INTRODUCED UNDER THE RUBRIC OF "TERRITORIAL COLONIALISM IN AMERICA" WHICH HAS BEEN ON THE AGENDA OF IAJC FOR PAST TWO YEARS. THEREFORE, ACCORDING RIBEIRO, NO ADVANCE WORD OR PREPARATION NEEDED TO ADDRESS SUBJECT. RIBEIRO'S IMPRESSION IS THAT PANAMANIAN AND PERUVIAN DELIBERATELY WAITED UNTIL AFTER AMERICAN MEMBER'S DEPARTURE (AUGUST 5). RIBEIRO SAID THAT PERUVIAN INTRODUCED A VERY STRONG RESOLUTION WHICH WAS "GREATLY MODIFIED" IN DISCUSSION. HE CLEARLY IMPLIED THAT IT HAD BEEN WATERED DOWN. COMMENT: RIBEIRO IS VERY FRIENDLY TO US AND IS VERY EMBARRASSED BY RESOLUTION WHICH HE TERMS POLITICAL RATHER THAN JURIDICAL. HE MAY WELL BE TRYING TO PUT BEST POSSIBLE FACE ON THIS. END COMMENT. RUIZ-ELDREDGE ALSO OFFERED HIMSELF TO PREPARE EXPOSICION DE MOTIVOS WHICH, ACCORDING RIBEIRO, IS REWORK OF LIMITED OFFICIAL USE

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PAPER THE PERUVIAN HAD PREPARED SOMETIME EARLIER, PERHAPS IN CONNECTION WITH UN DEBATE ON PANAMA CANAL, AND WHICH HE HANDED OUT IN BOOKLET FORM IN JANUARY 1975 AT PANAMA CONFERENCE ON PRIVATE INTERNATIONAL LAW.

4. FOLLOWING IS INFORMAL TRANSLATION OF OPERATIVE FOUR PARAGRAPHS OF RESOLUTION ON PANAMA CANAL:
(A) THE REPUBLIC OF PANAMA IS SOVEREIGN WITHIN

THE PART OF ITS TERRITORY DENOMINATED THE CANAL ZONE,
AND THE PANAMA CANAL SIGNIFIES THE EXPLOITATION OF ITS
ESSENTIAL NATURAL RESOURCE BECAUSE OF ITS GEOGRAPHIC
POSITION WITHOUT YET HAVING RECEIVED JUST BENEFITS FROM IT.
AND BEING SOVEREIGN AND HAVING THE LEGITIMATE
RIGHT TO THAT RESOURCE, AS HAS BEEN RECOGNIZED ALREADY
BY THE INTERNATIONAL COMMUNITY, IT SHOULD ASSUME CONTROL
OF THE CANAL'S ADMINISTRATION.

(B) IT IS RECOGNIZED THAT PANAMA HAS NEVER CREDED
SOVEREIGNTY OVER THE PART OF ITS TERRITORY DENOMINATED
THE "CANAL ZONE"; NEVERTHELESS, ESSENTIAL ELEMENTS OF THE
PANAMANIAN STATE ARE AFFECTED: TERRITORY, POPULATION,
AND EXERCISE, IN PART, OF ITS JUS IMPERII.

(C) THE EXISTING TREATIES BETWEEN THE UNITED
STATES AND PANAMA GIVE THE RIGHT OF USE, OCCUPATION AND
CONTROL FOR , AT THE TIME, CONSTRUCTION OF A PUBLIC
WORK; AND LATER, FOR THE FUNCTIONING OF THE CANAL.
THE JURIDICAL NATURE OF THAT RELATIONSHIP IS THAT
OF A CONCESSION OF AN INTERNATIONAL PUBLIC SERVICE, IN
WHICH THE CONCEDING POWER CORRESPONDS TO PANAMA AND THE
RIGHTS OF THE CONCESSIONAIRE TO THE UNITED STATES, WHICH
WILL LAST UNTIL PANAMA ASSUMES CNTROL OF THE CANAL
OPERATIONS.

(D) THE PERPETUITY CLAUSE IS STRANGE AND FOREIGN
TO THE JURIDICAL NATURE OF THE RELATIONSHIP;
AND IS DAMAGING TO CURRENT INTERNATIONAL LAW.
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